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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/091,788	09/08/1998	KENJI ONO	822-004	5329

25191 7590 07/02/2003

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EXAMINER

SHARMA, RASHMI K

ART UNIT PAPER NUMBER

3651

DATE MAILED: 07/02/2003

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 45

Application Number: 09/091,788
Filing Date: September 08, 1998
Appellant(s): ONO, KENJI

MAILED

JUL 02 2003

GROUP 3600

Kevin Brown
For Appellant

EXAMINER'S ANSWER

Art Unit: 3651

This is in response to the appeal brief filed 3/24/2003.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims 2 and 5-14 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

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The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

4,750,578 ✓ **Brandenfels** **6/1988**

5,010,973 ✓ **Brown** **4/1991**

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 14, 2, 5, 6, 8 and 10-12 have been rejected under 35 U.S.C. 102(b). This rejection is set forth in prior Office Action, Paper No. 36 and can be read below:

Claim Rejections - 35 USC § 102

I. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

II. Claims 14, 2, 5, 6, 8, 10-12 are rejected under 35 U.S.C. 102(b) as being unpatentable by Brandenfels (U.S. patent number 4,750,578).

Brandenfels discloses a dismantlable and collapsible utility cart comprising a driving portion selectively driving the vehicle forward or backward, a rotatable seat (16) being swivelable 360 degrees or removable, a steering handle (110/156) comprising at least one steerable wheel (92) and a reversible steering handle (110/156) being rotatable from one side of a hinge point to an opposite side of the hinge point (see figure 4), whereby the vehicle can be operated forward or backward by an operator

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riding thereon and the vehicle can be run backward with an operator not riding on the vehicle, a truck portion (20) having a removable front wheel portion, capable of being attached to another conveying means (see figure 1), also having the driving portion and the steering portion at a front end portion of the truck portion (20), handle stems (156) fixed at an upper end of the front wheel portion, stems adapted to be turned to rise and fall longitudinally, a handle bar (see figure 2) fixed to the handle stems (156) at a right angle with respect to the handle stems (156), whereby the bar handle arranged for the forward run on a back side of the steerable wheel and for the forward run is arranged on the front side of the front wheel (see figure 4). Brandenfels also discloses a vehicle being self-propelled at a speed equal to human walking speed, the driving portion comprising an electric motor (136) having a small capacity and two rear wheels (26) at a rear end portion.

Claims 7, 9 and 13 have been rejected under 35 U.S.C. 103(a). This rejection is set forth in prior Office Action, Paper No. 36 and can be read below:

Claim Rejections - 35 USC § 103

III. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

IV. Claims 7, 9 and 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brandenfels (U.S. patent number 4,750,578) in view of Brown (U.S. patent number 5,010,973).

Brandenfels does not disclose arm rests for the seat, a supporting bar made removable for supporting the operator when in a standing position from behind or a steering wheel.

Brown does disclose a steering wheel (33).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the vehicle of Brandenfels with the steering wheel of Brown's invention as a matter of design choice. They are both functionally equivalent to one another. Providing for seat arm rests and a support bar is well within the purview of one having ordinary skill in the art to provide a means for stabilizing an operator when in the standing position. It is also well within the scope of one having ordinary skill in the art to use a support bar in order to stabilize the rider while riding on the vehicle.

(11) *Response to Argument*

Applicant's arguments are directed towards claim limitations that are clearly disclosed or suggested in Brandenfels '578. Applicant argues that Brandenfels fails to disclose a driving portion being selectively switched between a forward driving mode and a backward driving mode, a swivelable seat and a seat having armrests.

Applicant argues that Brandenfels '578 fails to "disclose or suggest" a driving portion which can be selectively switched between a forward driving mode and a backward driving mode. This limitation as claimed, is disclosed by reading column 6 lines 43-47, "The cart can also be used as a dolly, as shown in FIG. 4, for carrying

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luggage L, by unlatching the handle from its upright position and pivoting it forward so that the user can guide the cart. The user can push or pull the cart or can use the hand lever 156 to power it." By referring now to column 2 lines 24-28, "A combination belt tightener and operating switch is provided on the front wheeled support in an arrangement to provide freewheeling when the motor is deenergized but to provide a drive therefor when the motor is energized." one can clearly see that Brandenfels does disclose or suggest these claim limitations. By using lever 156 which is connected to an electric motor (136) to selectively power the cart thereby driving the cart in either a forward driving direction or a rearward driving direction, Brandenfels invention discloses a cart which can be selectively driven in a forward driving mode and a backwards driving mode, as well as being capable of a forward and backwards freewheeling driving mode while the lever 156 is not utilized and is therefor driven by the operator.

Applicant argues that Brandenfels fails to disclose a swivelable seat. The limitation as claimed is clearly met by Brandenfels disclosure of a removably telescopic seat (50) which therefore provides swivelability (see figure 1). This "swivelability" enables the operator to adjust the seat to a desired height or a desired seat direction, as disclosed in Brandenfels.

Applicant also argues that a seat having armrests is not "well within the purview of one having ordinary skill in the art". It is submitted that it would have been well within the purview of one having ordinary skill in the art to provide armrests so as to comfortably stabilize a rider while seated.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,

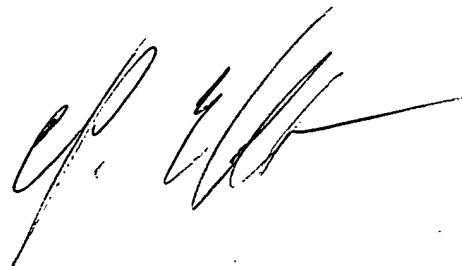
Rashmi K. Sharma
June 30, 2003

Conferees

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A handwritten signature in black ink, appearing to read 'C.P. Ellis', with a long horizontal stroke extending to the right.

CHRISTOPHER P. ELLIS
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TECHNOLOGY CENTER 3600